

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ILDEFONSO SOTO-SERVIN,

Petitioner,

CIV. S-05-0197 MCE PAN PS

v.

I.N.S.,

FINDINGS AND RECOMMENDATIONS

Respondent.

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On June 30, 2005, this court directed petitioner to serve process upon respondent and to file proof of such service by July 20, 2005. The Clerk of Court has twice attempted-on June 30 and July 6, 2005-to serve that order upon petitioner by mailing it to the address he provided the court; both times the mail was returned as undeliverable without a forwarding address.

E. D. Cal. L. R. 83-183(b) provides:

Address Changes. A party, appearing in propria persona shall keep the Court and opposing parties advised as to his or her current address. If mail directed to a plaintiff in propria persona by the Clerk is returned by the U.S. Postal

1 Service, and if such plaintiff fails to notify the Court and
2 opposing parties within sixty (60) days thereafter of a
3 current address, the Court may dismiss the action without
4 prejudice for failure to prosecute.

5 More than sixty days have passed since the U.S. Postal
6 Service returned the Clerk's most recent attempted service of the
7 court's order. Petitioner has failed to notify the court of his
8 current address. Accordingly, I recommend this action be
9 dismissed without prejudice for failure to prosecute. E. D. Cal.
10 L. R. 83-183(b), Fed. R. Civ. P. 41(b) and 83.

11 These findings and recommendations are submitted to the
12 Honorable Morrison C. England, Jr., the United States District
13 Judge assigned to this case. 28 U.S.C. § 636(b)(1). Written
14 objections may be filed within ten days after being served with
15 these findings and recommendations. The document should be
16 captioned "Objections to Magistrate Judge's Findings and
17 Recommendations." The failure to file objections within the
18 specified time may waive the right to appeal the District Court's
19 order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 Dated: November 9, 2005.

21 /s/ Peter A. Nowinski

22 PETER A. NOWINSKI
23 Magistrate Judge
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